IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.12.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.40288 of 2006
M.P.No.1 of 2006

R.Padmavathy
Power Agent of R.Sridevi
Chennai-12 .. Petitioner

Vs.

1. The Commissioner,
   Corporation of Chennai,
   Rippon Building,
   Chennai-600 003.

2.The Zonal Officer,
   Zone No.IV, Anderson Road,
   Ayanavaram,
   Chennai-23.

3.Palaniammal

4.Selvam

5.Palani

6.Chandra .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct respondents 1 and 2 to take action in respect of the illegal and unauthorised construction being put up by respondents 3 and 4 and in respect of the attempt to put up construction by respondents 5 and 6 in respect of the property bearing plot No.91, Mohamed Hussain Colony, Kolathur Village, Chennai.

For Petitioner : Mr.C.Ravichandran

For Respondents1&2 : Mr.V.Bharathidasan

For respondents 3 to 6 : No appearance

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ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

The petitioner has approached this Court to issue a writ of Mandamus directing respondents 1 and 2, the Commissioner, Corporation of Chennai, and the Zonal Officer, Zone No.IV, Anderson Road, Ayanavaram, Chennai-23, to take action in respect of the illegal and unauthorised construction being put up by respondents 3 and 4 and in respect of the attempt to put up construction by respondents 5 and 6 in respect of the property bearing plot No.91, Mohamed Hussain Colony, Kolathur Village, Chennai.

2. Considering the relief prayed for, we ordered notice to respondents including respondents 3 to 6. Though notice was duly served on respondents 3 to 6 through Court as well as privately, they refused to receive the same. The learned counsel for the petitioner has also filed an affidavit of service to that effect. Even the notices sent through Court to the respondents were returned with an endorsement "refused". In view of the same, we directed the Registry to show their names in the cause list. Accordingly, all the names were printed in the cause list. In spite of affording sufficient opportunity, respondents 3 to 6 have not chosen to contest the above writ petition by appearing either in person or by engaging a counsel.

3. The Commissioner, Corporation of Chennai, has filed a counter affidavit, wherein it is stated that in so far as the unauthorised construction is concerned, respondents 3 and 4 had constructed building to an extent of 400 sq.ft., without obtaining permission from the Corporation of Chennai. It is further stated that earlier, the Corporation has issued notice to them under Section 236 of the Chennai City Municipal Corporation Act (hereinafter referred to as "the Act"). Despite the notice, they had completed the construction.

4. In so far as respondents 5 and 6 are concerned, according to the Commissioner, Corporation of Chennai, they had commenced the construction by doing earth work. At that time, the Corporation had issued notice under Section 236 of the Act and the work was immediately stopped by them. As on date, respondents 5 and 6 did not put up any construction and they are residing there in a hut. The Commissioner has also informed this Court that they had already issued notice under Section 236 of the Act and since respondents 3 and 4 put up construction, as a follow up action, the Commissioner assured that necessary steps will be taken by issuance of notice under Section 256 of the Act.

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5. The above statement in paragraph 5 of the counter affidavit is hereby recorded and respondents 1 and 2 are directed to proceed against respondents 3 and 4 as assured and in accordance with law.

6. Coming to respondents 5 and 6, in view of the fact that even for putting up a hut in a particular place, permission is required, hence, respondents 1 and 2 are free to take appropriate action against them in accordance with law.

7. The writ petition is ordered accordingly. No costs. Consequently, M.P.No.1 of 2006 is closed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner,
   Corporation of Chennai,
   Rippon Building,
   Chennai-600 003.

2.The Zonal Officer,
   Zone No.IV, Anderson Road,
   Ayanavaram,
   Chennai-23.

1 cc to Mr.C.Ravichandran, Advocate, SR.62032
1 cc to Mr.V.Bharathidasan, Advocate, SR.61496

gv (co)

dv/19.12.06



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